



DEPARTMENT OF PLANNING AND BUILDING

Promoting the wise use of land Helping build great communities

Grading and Stormwater Management



Planning Commission Workshop
September 24, 2009



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Outline

- I. Background
- II. Proposed Revisions
- III. Environmental Impact Report
- IV. Conclusion



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I. Background



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Clean Water Act

- Created NPDES
- NPDES permits issued by SWRCB
- County subject to NPDES phase II
 - “small MS4”
- Coverage under General MS4 Permit
 - Active since March 2007
 - Required preparation of SWMP



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SWMP

- 5 year program
- Lists Best Management Practices (BMPs) that the County will undertake
- Planning Department Focus:
 - Construction Phase
 - Post-Construction Phase



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Required BMPs

- **CON1A:** Incorporate General Construction Permit requirements.
- **PC1A:** Incorporate General MS4 Permit post-construction requirements.
- **CON1B:** Enforce the General Permit standards.
- Must be implemented by **March 2010**



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Grading Ordinance Issues

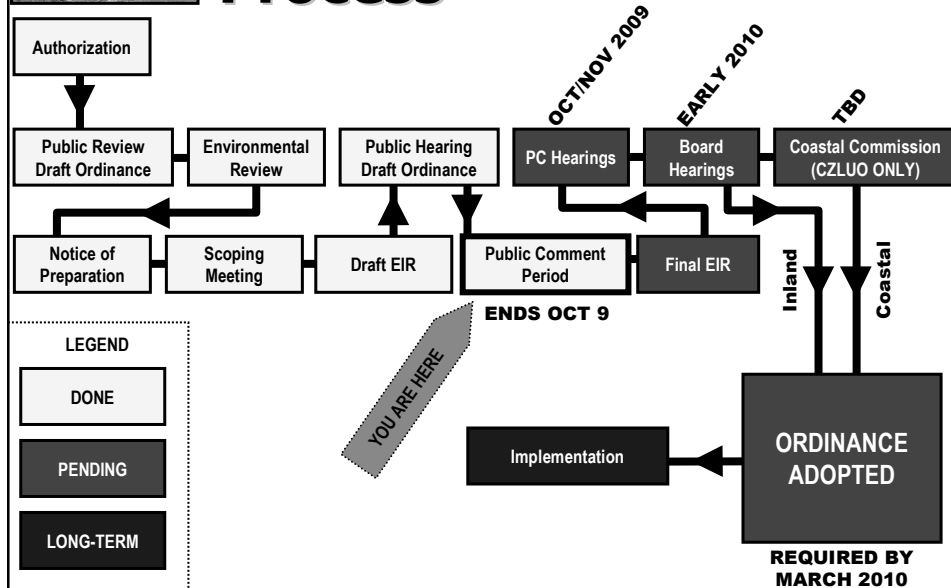
- Permit thresholds allow a substantial amount of site work without a permit.
- Agricultural exemptions are frequently misused for non-agricultural purposes.
- Issues raised by the Coastal Commission pertaining to grading during Periodic Review will likely need to be addressed during the grading ordinance update.



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Process





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II. Proposed Revisions



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Summary

- Refer to Attachment 1 (Pg. 1-8) or Overview (Pg. 1-3)
- Revisions required by SWMP:
 - MS4 Permit Post-Construction Std.
 - General Construction Permit Std.
 - Enforcement



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Summary

- County-initiated revisions:
 - Modify Grading Permit thresholds.
 - Modify agricultural exemptions.
 - Prohibit grading over 30 percent (COSE).
 - Provide for hydromodification standards.
 - Align coastal and inland ordinances.
 - Expand agricultural exemptions (CZ).
 - Lodge Hill erosion control.
 - Updates/reformatting/definitions.



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MS4 Post Construction

- New section added to Ch. 22.10/23.04 – “Stormwater Management”
- Applies only to *discretionary* projects.
- Applies only to certain uses, e.g.:
 - Restaurants
 - Service stations
 - Hillside residences (slope $\geq 10\%$)
 - Development w/ 100K sqft impervious.

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MS4 Post Construction

- Affects design – must be addressed during discretionary review process.
- Goal: avoid stormwater contamination after construction for the life of the project.
- Long-term maintenance of measures required
 - CC&Rs or deed restriction required.

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MS4 Post Construction

- Waiver / modification:
 - Review authority may grant it in certain cases.
 - RWQCB may override waiver.
 - Applicant may petition RWQCB directly for waiver.

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General Construction Stds.

- Already implemented by RWQCB
- Applies to sites with:
 - 1+ acres of site disturbance
 - Larger common plan of development
 - Drains to impaired watercourse (303d list)
- Waivers available:
 - Conditional waiver – irrigated ag
 - Rainfall erosivity waiver (1-5 acres)

Page 1-10 (1-83)



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General Construction Stds.

- Already required by the State:
 - Preparation of a SWPPP
 - Implementation of BMPs
 - Inspection, repair, maintenance
 - Monitoring and reporting
- New:
 - County review/approval
 - Ability for County to enforce

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Enforcement

- Existing: criminal and civil penalties
- Changes:
 - Notification that enforcement under the Clean Water Act may occur
 - Increase civil fine from \$6K to \$25K per day
 - Publication of violator's name
 - Recuperation of fines against the County
 - Special requirements for unpermitted grading

Page 1-12 (1-113)



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Thresholds

- Existing threshold is fairly complex
 - 14 "and" statements + 6 "or" statements
- Threshold exempts large quantities of cut/fill as long as depth of cut is no greater than 2 feet and depth of fill is no greater than 3 feet
- Common understanding: 50 cubic yards triggers a grading permit

Page 1-13 (1-51)



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Thresholds

- Proposal – Grading Permit required when:
 - 50-500 cy – when one or more of the following is true:
 - Depth of cut > 1 foot
 - Cut slope height > 3 feet
 - Cut slope > 2:1 (steepness)
 - Fill depth > 1 foot
 - 500+ cy – always
 - Watercourse – triggered at 20 cy

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Ag Exemptions

- New features:
 - Form to be filed w/ County Planning before grading
 - Minimum requirements for exemption
 - Level system replaced:
 - Exempt – no form
 - Ag Grading – form required
 - Alt. Review – form + NRCS/RCD

Page 1-15 (1-57)



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Changes Proposed

- Roads – biggest ag grading code enforcement issue
 - Move from Ag Grading to Alt. Review
 - Ag Commissioner to determine if width is appropriate for the agricultural use
- Ag Grading → Alt. Review
 - New fields > 20% slopes
 - Recreational Trails

Page 1-15 (1-57)

Page 1-32						
Grading Activity	Exempt	Ag Exempt	Alternative Review	Grading Permit	Variance	Notes
Current Permit Level		Level 1 or 2	Level 3	Level 4		
CROP PRODUCTION AND GRAZING						
Ongoing crop production and grazing	<input type="checkbox"/> ●					22.52.070B.11
New fields crop production and grazing – slopes of less than 20 percent		<input type="checkbox"/> ●				22.52.070C.2.a
New fields for crop production and grazing – slopes between 20 and 30 percent		<input type="checkbox"/> → ●				22.52.080B.1
Creating hillside benches (as opposed to fields) over 30 percent slopes			<input type="checkbox"/> ●			22.52.080B.2
New fields for crop production and grazing over 30 percent				<input type="checkbox"/> ●		
INFRASTRUCTURE						
Routine maintenance of roads, pipelines, etc.	<input type="checkbox"/> ●					22.52.070B.12
Installation of water pipelines / irrigation		<input type="checkbox"/> ●				22.52.070C.2.b
Constructing waste management systems			<input type="checkbox"/> ●			22.52.080B.9
Constructing a small reservoir		<input type="checkbox"/> ●				22.52.070C.2.c
Constructing a larger reservoir – not in a stream			<input type="checkbox"/> ●			22.52.080B.4

☐ = CURRENT ● = PROPOSED ○ = PROPOSED IN LIMITED CIRCUMSTANCES

Grading Activity	Exempt	Ag Exempt	Alternative Review	Grading Permit	Variance	Notes
<i>Current Permit Level</i>		<i>Level 1 or 2</i>	<i>Level 3</i>	<i>Level 4</i>		
Constructing a larger reservoir – in a stream			● ←	□		22.52.080B.4 – note that CEQA review would be required by Fish and Game
New agricultural road – less than 16 feet wide		□ →	●			22.52.080B.3
New agricultural road – more than 16 feet wide			□ ●			22.52.080B.3
New road proposed to serve a structure				□ ●		Note 1
Conversion of preexisting agricultural road to a road intended to serve a permitted structure				□ ●		Note 1
CONSTRUCTION						
Roads/building pad for a structure – less than 30 percent slopes				□ ●		Note 1
Roads/building pad for a structure – 30 percent or greater slope				□ → ●		Grading Permit required after Variance approval
MISCELLANEOUS ENHANCEMENTS						
Recreational trails		□ →	●			22.52.080B.8
Conservation and enhancement; streambank restoration; upland restoration	○ ←	□ →	●			22.52.070B.7; 22.52.080B.5, 6, 7

□ = CURRENT ● = PROPOSED ○ = PROPOSED IN LIMITED CIRCUMSTANCES

Grading Activity	Exempt	Ag Exempt	Alternative Review	Grading Permit	Variance	Notes
<i>Current Permit Level</i>		<i>Level 1 or 2</i>	<i>Level 3</i>	<i>Level 4</i>		
Maintenance of a drainage channel	● ←	□				22.52.070B.12
Clearing vegetation for a firebreak	□ ●					Must adhere to Cal Fire recommendations
SPECIALIZED USES						
Nursery specialties				□ ●		
Equestrian facilities				□ ●		

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Minimum Requirements

- To qualify as exempt, project must:
 - Receive all state/federal permits
 - Incorporate erosion/sedimentation control measures (both short- and long-term)
 - Not have the potential to create a hazardous condition.
 - In Coastal Zone, project cannot be exempt if a CDP is required (Alt. review instead)

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Exempt Grading

- Ongoing crop production / grazing
 - Must have been in use for one of the previous five years
 - No importation/exportation
 - Must use NRCS practices
- Repair and maintenance
 - Roads, irrigation, drainage, etc.
 - Can't increase capacity/length/width

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Agricultural Grading

- New fields w/ 0-20% slope
- Small pond < 1 acre-foot, no dam
- Installation of new irrigation lines

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Alternative Review

- Can act as a CDP in the Coastal Zone
- Ponds/roads require Ag Comm review to determine appropriateness
- Review, approval, inspection done by NRCS or RCD

Page 1-15 (1-59)



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Alternative Review

- New fields > 20% slopes
- Hillside benches > 30% slopes
- Ag Roads
- Ponds
- Streambank protection / conservation / upland restoration
- Trails and recreation enhancements
- Waste management systems

Page 1-15 (1-59)



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The Ag Grading Form

- See Page 1-35 for draft
- Similar to ag exempt building process
- Requires acknowledgement of:
 - Potential state/federal permits
 - Responsibility to use erosion and sedimentation control practices
- Allows staff to verify that the proposal does not require a County grading permit

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Grading over 30%

- Already prohibited in Coastal Zone
- Draft COSE Policy SL 1.3.2 would require that this be implemented in the inland area
- Potential Class I impact as this could result development on level terrain with better agricultural production capability
- Ag grading not subject to this limitation

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Hydromodification

- Essentially – run-off and infiltration to pre-development levels
- Not currently required in SWMP
- RWQCB: county should amend SWMP
 - Long-term measures by Year 5 (2012)
 - Interim measures should be in place
 - Collaborative effort – County is participating

Page 1-21 (1-80)



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Hydromodification

- Proposal: hydromodification to be required once incorporated into the County's LID Handbook

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Coastal / Inland Alignment

- CZLUO did not receive the same updates in 1999 as the LUO
- Inland items to be applied in coastal include:
 - UBC reference update
 - Administration: modifications to approved plans; corrections to hazardous conditions; emergency work
 - Criteria for approval
 - Required plan contents

Page 1-22



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Coastal / Inland Alignment

- Coastal items to be applied inland:
 - Retention of natural channels, drainage
 - Use of LID techniques
 - Incorporation of BMPs into drainage design

Page 1-22



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Coastal Ag Exemption

- Existing:
 - *Preparation of land for cultivation, other than roadwork or pads for structures*
- Coastal Commission identified issues with this exemption during Periodic Review
- Coastal also suggested a modified exemption program using NRCS (i.e. Alt. Review)

Page 1-23 (1-58)



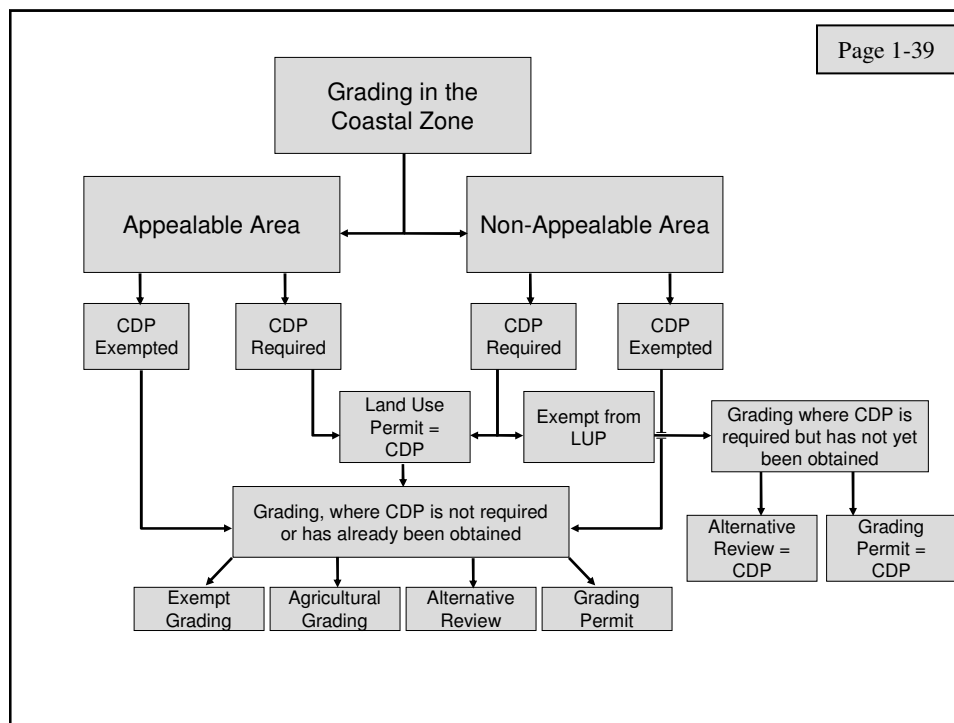
DEPARTMENT OF PLANNING AND BUILDING

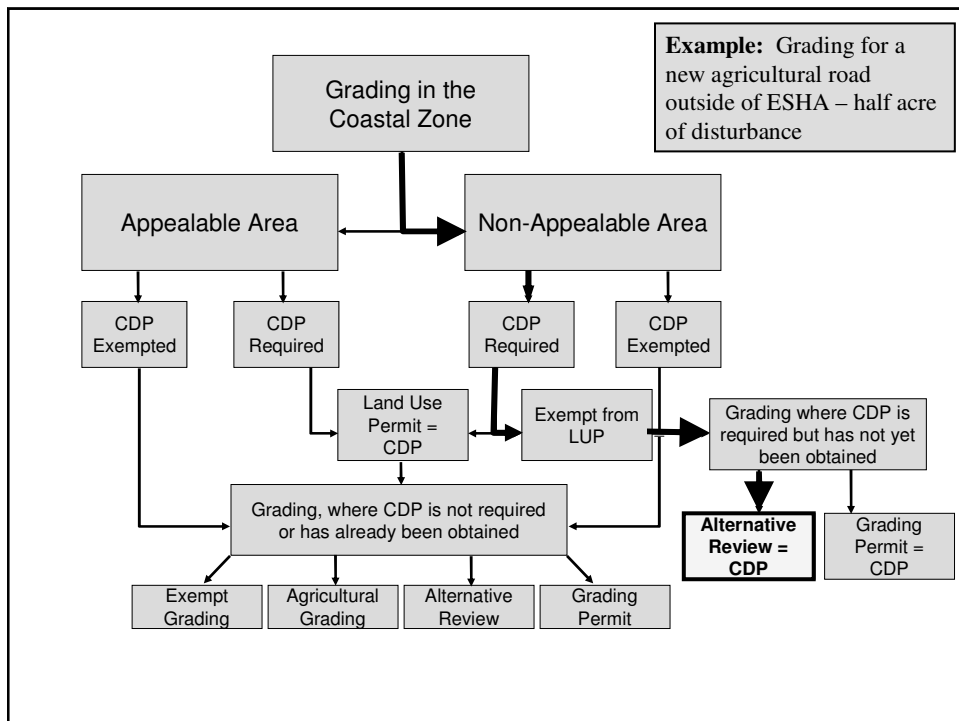
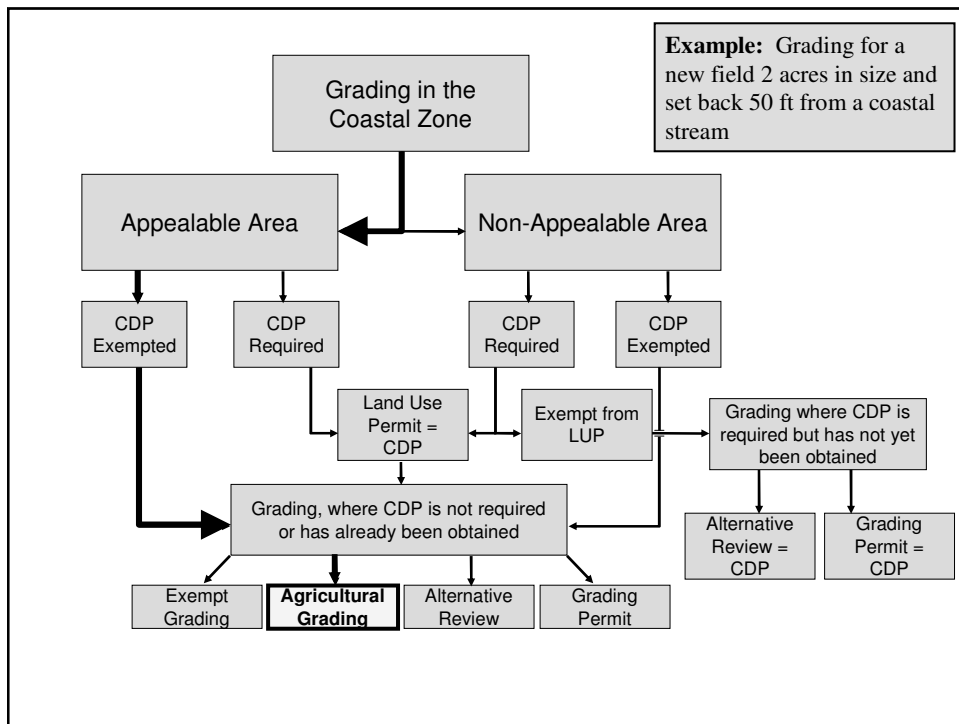
Promoting the wise use of land Helping build great communities

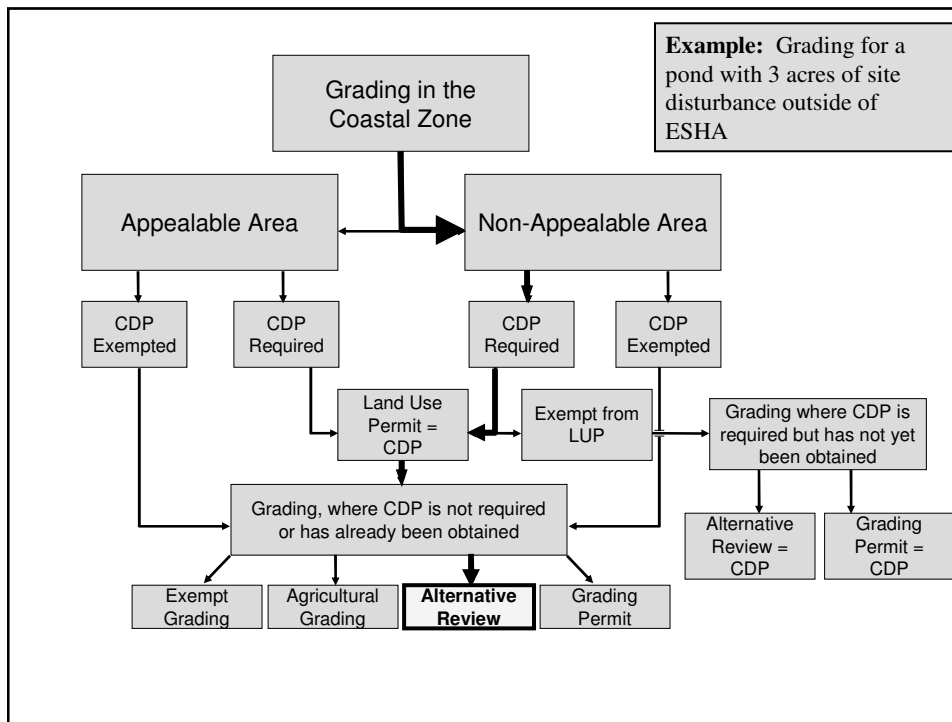
Coastal Ag Exemption

- Proposal: Add inland ag exemption program to the Coastal Zone
- Coastal Development Permits:
 - Usually, ag cultivation does not need a CDP
 - Roads, ponds, etc. may need a CDP
 - Projects which need a CDP cannot be exempt
 - Proposal: Director approval of alt. review can constitute a CDP

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Coastal Ag Exemption

- Complies w/ Coastal Commission recommendation to streamline agricultural grading using NRCS/RCD
- Potential Class I impact: intensification of ag use in Chorro, Los Osos Valleys where water availability is an issue



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Lodge Hill Erosion Control

- Lodge Hill Erosion Control Program
 - Ch. 6, Program 14 – NCAP
- Proposal: Require Lodge Hill development to comply with MS4 post-construction measures to reduce likelihood of erosion and sedimentation
 - Addresses interim erosion control while the comprehensive solution is pending

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Reformatting/Refining

- Re-organize / re-order sections
- Split and combine section
- Add new language for clarification:
 - Responsibility of the Landowner
 - Cross-reference Table 2-3 / Table 3-A
 - Notes reminding about state/federal permits
- Remove redundancies / contradictions
- Add EIR Mitigation Measures

Page 1-27



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Update Section References

- Affects the following:
 - LUO – Title 22
 - CZLUO – Title 23
 - North Coast Area Plan
 - Coastal Plan Policies
 - Section reference updates are the only changes in Coastal Plan Policies

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Definitions

- Define new terms, e.g.:
 - Best Management Practices
 - Impervious
 - Low Impact Development Handbook
 - Municipal Separate Storm Sewer System
- Clarify existing terms:
 - Excavation – doesn't include ag cultivation
 - Site disturbance – includes veg removal

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III. Environmental Impact Report



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Outline

- EIR Process
- Issues / Impact Analysis
- Alternatives



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EIR Process

- Notice of Preparation (June 29, 2009)
- ***Scoping Meeting (July 30, 2009 - complete)***
- Draft EIR (August 24, 2009)
- ***Public Review / Comments on Draft EIR (open)***
- Response to Comments

(Note: Opportunities for Public Involvement)



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EIR Process

- Prepare a Final EIR
- ***Planning Commission Hearing (Oct. 22, 2009)***
 - Recommend Certification of Final EIR
 - Recommend action to Board of Supervisors
- ***Board of Supervisors Hearing (TBA)***

(Note: Opportunities for Public Involvement)



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Issues / Impact Analysis

- **Agricultural Resources** – potential impacts associated with the 30 percent slope limitation (Class I).
- **Air Quality** – potential impacts associated with increased emissions, dust generation, and greenhouse gases (Class II).
- **Hydrology and Water Quality** – potential impacts resulting from grading activities (Class III and IV).
- **Visual Resources** – potential impacts resulting from grading activities (Class II and IV).



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Issues / Impact Analysis

- **Biological Resources** – activities may result in removal of sensitive habitats or affect special status species (Class II).
- **Cultural Resources** – potential impacts to pre-historic, historic, or fossil bearing strata (Class II).
- **Water Resources** – expansion of water-intensive agricultural uses in limited groundwater areas (Class I).



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Alternatives

No Project Alternative – this alternative would not comply with the requirements intended to reduce pollutants in stormwater discharges from construction sites and specific uses subject to the MS4 requirements. This would result in a violation of the County's Stormwater Management Program and fines levied against the County for non-compliance with said program (required by CEQA).

Additional Agricultural (Ag) Exemptions – this alternative includes additional appropriate agricultural exemptions recommended through consultation with ALAB.



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Alternatives

More Restrictive Ag Exemptions – this alternative would further restrict agricultural exempt activities that would be allowed under the County grading ordinance.

Not modifying Ag exemptions in Coastal Zone – this alternative would result in the same permit requirements that are currently required for agricultural development activities within the Coastal Zone.



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Alternatives

Exclude the 30% slope limitation in the inland ordinance – this alternative would not include the slope limitation within the inland portions of the County as identified in the Draft Conservation and Open Space Element (SL 1.3.2).



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IV. Conclusion



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Conclusion

- Staff will complete tasks associated with Final EIR.
- Prepare for P.C. hearing on October 22, 2009 (keep your staff report).
- Future Hearing Organization
- Questions?